

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY



1700 East Golf Road
Schaumburg, Illinois 60173-5860

Writer's Direct Dial
(708) 995-6824

0100478017

RECORDATION NO. 14711-E
FILED 1995

January 6, 1995

JAN 9 1995 - 9 05 PM

Mr. Vernon A. Williams
Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue NW
Washington, D.C. 20423

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Re: Secondary Document For Filing Under Recordation No. 14711

Dear Mr. Williams:

I have enclosed an original and two counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Locomotive Sublease and Purchase Agreement, a secondary document, dated as of August 26, 1994. The primary document to which this is connected is recorded under Recordation No. 14711. (The primary document is the Equipment Trust Agreement, Series 5, dated as of April 1, 1985 between Harris Trust and Savings Bank Trustee and The Atchison, Topeka and Santa Fe Railway Company.)

The names and addresses of the parties to the document are as follows:

Sublessor: The Atchison, Topeka and Santa Fe Railway Company
1700 East Golf Road
Schaumburg, IL 60173
Attn: Vice President - Finance

Sublessee: Wisconsin Central Ltd.
One O'Hare Centre
Suite 9000
6250 North River Road
Rosemont, IL 60018
Attn: Thomas E. Power, Jr.
Executive Vice President
Chief Financial Officer

Counters parts - Vernon Williams

Purchaser: WCL Railcars, Inc.
One O'Hare Centre
Suite 9000
6250 North River Road
Rosemont, IL 60018
Attn: Thomas E. Power, Jr.
Executive Vice President
Chief Financial Officer

The equipment covered by the Locomotive Sublease and Purchase Agreement is described on Appendix 1 attached thereto.

A check No. 4300 in the amount of \$21.00 is enclosed in payment of the Interstate Commerce Commission's prescribed recordation fee.

For the convenience of the parties, I have enclosed two (2) additional counterpart of the Locomotive Sublease and Purchase Agreement, which I would like to have returned to me bearing the recordation information. In addition, please find a pre-addressed, stamped envelope for the convenience of returning the counterpart to Santa Fe.

A short summary of the document to appear in the index follows:

A Locomotive Sublease and Purchase Agreement dated as of August 26, 1994, between The Atchison, Topeka and Santa Fe Railway Company (Sublessor) and Wisconsin Central Ltd (Sublessee) and WCL Railcars, Inc. (Purchaser) of the following (31) locomotives currently subject to the ATSF Equipment Trust Agreement Series 5 dated as of April 5, 1985:

5328	5342	5388	5399	5359	5972
5329	5344	5391	5402	5383	
5334	5345	5392	5327	5384	
5336	5346	5395	5331	5390	
5337	5400	5396	5332	5393	
5341	5382	5397	5339	5394	

Very truly yours,


Craig N. Smetko
General Attorney

Enclosures

cc: Mr. L. S. Vollmer

lwcorp\wp\cns\doc\0301.cor

PURCHASE 14211-E
JAN 9 1995 2 15 PM

LOCOMOTIVE SUBLEASE AND PURCHASE AGREEMENT

This Locomotive Sublease and Purchase Agreement (the "Sublease") is made as of the 26th day of August, 1994, between The Atchison, Topeka and Santa Fe Railway Company, a corporation of the State of Delaware (hereinafter "Sublessor") and Wisconsin Central Ltd., a corporation of the State of Illinois (hereinafter "Sublessee") and WCL Railcars, Inc., a corporation of the State of Illinois and an affiliate of Sublessee (hereinafter "Purchaser").

WHEREAS, Sublessor desires to sublease to Sublessee certain locomotives described in Parts A and B of Appendix 1 (hereinafter referred to as "Locomotives");

WHEREAS, the Locomotives are subject to the financing arrangements described in Parts A and B of Appendix 1 under which Harris Trust and Savings Bank acts as trustee ("Trustee") under the Equipment Trust Agreements listed in said Appendix;

WHEREAS, this Sublease of Locomotives is at all times to be subordinate to such financing agreements and the rights of the Trustee;

WHEREAS, Purchaser desires to purchase from Sublessor the Locomotives described in Part A and B of Appendix 1.

NOW, THEREFORE, for and in consideration of the initial covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, Sublessor, Sublessee and Purchaser agree as follows:

1. Equipment.

Sublessor agrees to furnish and lease to Sublessee, and Sublessee agrees to accept and use under the terms and conditions set forth herein, the Locomotives described in Parts A and B of Appendix 1 hereto.

2. Delivery.

2.1 The Locomotives shall be delivered to Sublessee at Corwith, Illinois and the provision of transportation services in connection with the shipment of the Locomotives beyond said point of delivery shall be the responsibility of the Sublessee.

2.2 The Sublessor shall not be liable for delays in delivery or failure to deliver the Locomotives due to (a) causes beyond its reasonable control, or (b) acts of God, acts of the Sublessee, acts of civil or military authority, governmental priorities, fires, strikes, floods, epidemics, war, riots, or delays in transportation. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay.

3. Receipt, Inspection and Acceptance.

- 3.1 At the time the Locomotives are delivered, an authorized representative of Sublessee shall execute a Certificate of Acceptance in the form attached as Appendix 2 hereto.
- 3.2 The Locomotives will be subject to Sublessee's inspection upon delivery. Failure to report any material defect in the Locomotives discoverable upon visual examination and physical inspection at the time of delivery will constitute acceptance of the Locomotives and be conclusive evidence of fitness for service at the time of delivery or compliance with the terms of paragraph 5.3 of this Sublease, provided that Sublessee acknowledges that the Locomotives described in Part B of Appendix 1 are Locomotives in need of some repair. Prior to delivery of each of the Locomotives to Sublessee, Sublessor shall remove the air conditioning therefrom.
- 3.3 During the term of the Sublease, the locomotives will be available at all reasonable times for Sublessor's inspection and for inspection by the Trustee under any primary financing arrangement, as described in Parts A and B of Appendix 1, but neither Sublessor nor Trustee is under any obligation to inspect such Locomotives and Sublessee's obligation to keep the Locomotives in good repair and operating condition will not be affected in any manner by any failure to inspect.
- 3.4 The locomotives in Part A of Appendix 1 will be delivered in a serviceable running condition and in full compliance with current Federal Railroad Administration safety requirements for interchange.

4. Rentals.

- 4.1 Sublessee agrees to pay to Sublessor, as rent for each of the Locomotives described in Part A of Appendix 1, the sum of Three Hundred Dollars (\$300.00) per day and as rent for each of the Locomotives described in Part B of Appendix 1 the sum of One Hundred Dollars (\$100.00) per day, after delivery and acceptance so long as this Sublease shall apply to each such Locomotive. Such rent shall be paid monthly in arrears on an actual day basis by and due no later than the first day of the following month (the "Payment Date").
- 4.2 Payments of rental charges not received within five (5) days of the Payment Date will accrue interest as provided in paragraph 4.3. Payments for the purchase of the Locomotives shall be made as set forth in paragraph 15.3. All other payments due under this Sublease will be made within thirty (30) days of invoicing. Payments, unless otherwise agreed, shall be by wire transfer to such bank or other account in the continental United States as Sublessor shall designate.

- 4.3 Anything to the contrary notwithstanding, it is agreed that if rental charges remain unpaid five (5) days after the Payment Date or any other amounts remain unpaid after the same shall have become due and payable pursuant to the terms of this Sublease, the Sublessee shall pay interest at an annual rate at the then-current prime rate of interest charged by Citibank N.A. plus two and one-half percent (2½%) (or the lawful rate, whichever is less) on overdue rental from the Payment Date and on other overdue amounts for the period of time during which they are overdue; it being expressly understood that this provision shall be in addition to (and not in derogation of) any other rights which Sublessor may have under this Sublease in the event Sublessee fails to make all payments when due and payable.

5. Alterations, Maintenance and Repair.

- 5.1 Except for alterations or changes required by law or regulatory authorities and repairs Sublessee intends to perform on the thirteen (13) Locomotives listed in Part B of Appendix 1, or as otherwise expressly permitted by Sublessor, the Sublessee shall not effect any change in the design, construction or specifications of the Locomotives, body or electrical equipment, or components thereof, without the prior authority and approval of the Sublessor, which approval shall not be unreasonably withheld. Any such alteration or change, if made, shall be at Sublessee's expense except as provided in Section 6.1. Any parts installed or replacements made by Sublessee upon any Locomotive shall be considered accessions to such Locomotive, except portable items such as radios and telemetry devices, and title thereto shall be immediately vested in the Trustee or Sublessor, as governed by the applicable primary financing agreement, without cost or expense to Sublessor.
- 5.2 Sublessee shall, during the term of this Sublease, at its sole expense, keep the Locomotives in good repair and operating condition (ordinary wear and tear excepted), applying the manufacturer's recommended normal maintenance standards and procedures.
- 5.3 ABSENCE OF WARRANTIES BY SUBLESSOR. THE LOCOMOTIVES SUBLEASED UNDER THIS AGREEMENT ARE TO BE ACCEPTED BY SUBLESSEE IN AS IS CONDITION WITH NO WARRANTIES OR REPRESENTATIONS WHATSOEVER BY SUBLESSOR AS TO THEIR FREEDOM FROM DEFECTS IN MATERIAL, WORKMANSHIP OR MAINTENANCE, OR THEIR MERCHANTABILITY, CONDITION OR FITNESS FOR ANY PARTICULAR PURPOSE.

6. Use and Operation.

- 6.1 The Sublessee agrees to comply in all respects with all laws of the jurisdictions in which its operations involving the Locomotives may extend and with all lawful rules of the Interstate Commerce Commission and any other legislation,

executive, administrative or judicial body exercising any power or jurisdiction over the Locomotives, to the extent that such laws and rules affect the operation or use of the Locomotives. In the event such laws or rules require an alteration to the Locomotives, the Sublessee will conform therewith, at its expense if the cost of the alteration is up to Ten Thousand Dollars (\$10,000.00) per Locomotive during the term of this Sublease, or, if the cost of the alteration is greater than such amounts, at its expense if it so elects. Provided, however, if the cost of the alteration is greater than Ten Thousand Dollars (\$10,000.00) per Locomotive during the term of the Sublease as to such Locomotive and Sublessee elects not to perform such alteration at its expense and Sublessor also elects not to bear the expense of alteration, Sublessee shall have the option to terminate this Sublease with respect to the particular Locomotive or Locomotives requiring such alteration if such laws or rules substantially affect the operation or use of the Locomotives in general service. In the event of such termination, Sublessee shall return the unit(s) to Sublessor and neither Sublessor nor Sublessee shall have any further obligation to the other with respect to such particular Locomotive other than those already arising prior to the termination. After any alterations, Sublessee will maintain the same in proper condition for operation under such laws and rules, provided, however, that the Sublessee may, in good faith, contest the validity and application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Sublessor, adversely affect the property or right of the Sublessor or Trustee as owner hereunder or the financing arrangements, respectively.

- 6.2 Sublessee will use and operate the Locomotives in conformance with all applicable manufacturer recommendations.
- 6.3 Sublessee will maintain records as to the use, operation, movement and maintenance of the Locomotives, and such records will be available for Sublessor's inspection at reasonable times and upon reasonable notice.
- 6.4 Sublessee agrees to use the Locomotives primarily within the boundaries of the United States and may use the Locomotives in Canada provided that the lien of the Equipment Trust Agreement applicable to such Locomotives is properly perfected in Canada.
- 6.5 After acceptance, charges levied by any parties for use of their rights of way, track, storage or hauling are the responsibility of the Sublessee.

7. Taxes and Liens.

- 7.1 Sublessee agrees that, during the continuance of this Sublease, it will promptly pay, as additional rentals, all property taxes, sales and use taxes, withholding taxes, and assessments and other government charges in the nature of such taxes levied or assessed against the Sublessor, or any predecessor or successor in title

of the Sublessor, as the case may be, on account of its ownership of the Locomotives, or on account of the use or operation thereof, or on account of the earnings arising therefrom (exclusive, however, of any tax in the nature of a U.S. federal or state income tax on the rentals herein provided), including any sales or similar taxes payable on account of the leasing of the Locomotives hereunder; but the Sublessee shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof, unless thereby, in the reasonable judgment of the Sublessor, the rights or interests of the Sublessor or Trustee, as the case may be, will be materially endangered. In the event any tax reports are required to be made concerning said Locomotives, the Sublessee will make such reports itself, if permitted by law, in such manner as to show the ownership of such Locomotives by the Sublessor or Trustee, or if not permitted by law, will notify the Sublessor of such requirement and will provide such information as necessary to make such report in such manner as shall be reasonably satisfactory to the Sublessor or Trustee.

- 7.2 Sublessee will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim against the Sublessee which, if unpaid, might become a lien or charge upon or against the title of the Sublessor to the Locomotives or which might have the effect of altering in any way the rights of the Sublessor or Trustee in such Locomotives under this Sublease; but the Sublessee shall not be required to pay or discharge any such debt, tax, charge, assessment, or obligation or claim so long as the validity or amount thereof shall be contested in good faith and by appropriate legal or administrative proceedings, unless such contest will, in the reasonable judgment of the Sublessor, materially endanger the rights or interest of the Sublessor or Trustee.

8. Loss and Damage.

- 8.1 Sublessee shall bear the entire risk of loss (including theft) or damage to any Locomotive from the date of delivery through termination of the Sublease with respect to that Locomotive in accordance with the provisions of Section 15.1 below, regardless of the cause of such loss or damage, except to the extent such loss or damage is caused directly by the negligence or willful misconduct of Sublessor or its employees.
- 8.2 Sublessee shall notify Sublessor promptly of any accident, collision, loss, theft or damage involving any Locomotive, to be followed promptly by a detailed written report to Sublessor. Sublessee shall provide all assistance reasonably required by Sublessor in the investigation, defense or prosecution of any resulting claims or suits.

8.3 In the event a Locomotive is lost or damaged beyond repair, Sublessee shall so notify Sublessor within fifteen (15) days and within thirty (30) days thereafter pay Sublessor the Sublessor's depreciated book value of the Locomotive at the time of casualty ("Casualty Value"), except to the extent such loss or damage is caused directly by the negligence or willful misconduct of Sublessor or its employees. At the same time the Casualty Value payment is made, Sublessee shall also pay to Sublessor the daily rental charges for such Locomotive through the date of payment of the Casualty Value. The parties shall share in salvage of the Locomotive to the extent of their relative payments for the casualty.

8.4 In the event a Locomotive is partly damaged or destroyed, the Sublessee shall elect within fifteen (15) days of such occurrence, after consultation with Sublessor, whether to repair the Locomotive or consider it damaged beyond repair. If the Sublessee elects to repair the Locomotive, it shall do so (or have the repairs done) at its own expense except to the extent such damage is caused directly by the negligence or willful misconduct of Sublessor or its employees.

8.5 Insurance Provision

8.5.1 Insurance. Sublessee will at all times after delivery and acceptance of each Locomotive, at its own expense, carry and maintain or cause to be carried and maintained property insurance in respect of the Locomotives at the time subject hereto and public liability insurance with respect to third-party personal and property damage. The Sublessee will continue to carry such insurance in each case with such deductibles, in such amounts and for such risks and with such insurance companies of recognized responsibility and subject to such self-insurance in each case as is consistent with prudent industry practice for railroads similar to Sublessee, but in any event not less comprehensive in amounts and against risks customarily insured against by the Sublessee in respect of equipment owned or leased by it similar in nature to the Locomotives. The Sublessee warrants and affirms that it will satisfy all obligations under each such policy necessary to keep such insurance in full force and effect.

8.5.2 Such insurance policies shall name and insure the Sublessor and the Trustee as additional insureds under the comprehensive public liability insurance and under the property insurance with respect to the Locomotives. Sublessee shall furnish the Sublessor and the Trustee with certificates or other satisfactory evidence of maintenance of the insurance so required and shall furnish formal confirmation reasonably acceptable to the Sublessor evidencing renewals thereof as soon as practicable after such renewal is effected.

9. Indemnity.

The Sublessee hereby agrees to indemnify, reimburse and hold the Sublessor (and any assignee or successor in title of Sublessor) harmless from any and all losses, damages, costs (including attorneys' fees), injuries, claims, demands, suits, judgments or causes of action whatsoever (hereinafter referred to as the "Liabilities") arising on account of, or caused in any way by, any of the Locomotives or the use or operation thereof (after acceptance of such Locomotives by Sublessee up to the termination of this Sublease with respect thereto), except to the extent directly caused by the negligence or willful misconduct of Sublessor or its employees. Sublessee will notify Sublessor promptly of any liability, as defined above, and permit Sublessor to appear in any proceeding to defend its interests as they may be.

10. Liability of Sublessor and Sublessee.

In no case, whether liability arises under breach of contract, warranty, tort (including negligence) or otherwise, will each party's liability to the other include any special, incidental, indirect or consequential damages including, but not limited to, loss of revenue or profits, damage to freight, loss of use of any equipment, cost of capital, downtime costs or claims of Sublessee's customers for such damages.

11. Title, Identification, Recording.

- 11.1 At all times during the continuance of this Sublease title to the Locomotives shall remain in the name of the Trustee subject to the financing arrangements described in Parts A and B of Appendix 1 hereto or subject to Sublessor's General and Adjustment Mortgages, and delivery of the Locomotives to Sublessee, its assigns or successors, and Sublessee's possession of the Locomotives, shall constitute a lending or bailment for hire.
- 11.2 No right, title or interest in the Locomotives will vest in Sublessee by reason of this Sublease or by reason of the delivery to or use by Sublessee of the Locomotives, except the right to use the Locomotives in accordance with the terms of this Sublease.
- 11.3 Sublessee will take all actions in connection with matters that arise by, through, or as a result of this Sublease necessary to protect the rights, interest and title of Sublessor and Trustee in the Locomotives, and will take no action inconsistent with that obligation.
- 11.4 Sublessee shall not place any markings on the Locomotives that might be interpreted as a claim of ownership by any person, association or corporation other than Trustee or Sublessor. No markings may be placed on the Locomotives without written consent of Sublessor, which consent shall not be unreasonably withheld; but the Locomotives may be lettered with the names or initials or other insignia customarily used by the Sublessee on its equipment of the same or a similar type for convenience of identification of the rights to use and operate the

Locomotives under this Sublease.

- 11.5 Prior to delivery of any Locomotive hereunder, Sublessee, at its own expense and without expense to Sublessor, shall cause this Sublease and any supplements hereto and any assignment and reassignment hereof to be filed with the Interstate Commerce Commission. Sublessee shall deliver to Sublessor one copy of a certificate or other evidence satisfactory to counsel for Sublessor of such filing and the payment of filing fees and taxes, if any, in connection therewith. In addition, Sublessee shall do such other acts in connection with matters that arise by, through, or as a result of this Sublease as may be required by Federal law, state law, Canadian law, if applicable, or reasonably requested by Sublessor, for the proper protection of Sublessor's or Trustee's title and interest in the Locomotives.

12. **Assignment.**

- 12.1 Sublessee shall not assign, transfer or encumber this Sublease or any interest therein or any right granted hereunder without the prior written consent of Sublessor or Trustee, if applicable, and it is agreed that any such transfer, assignment or encumbrance, whether voluntary, by operation of law or otherwise, without such prior written consent, shall be void and shall, at the option of Sublessor, terminate this Sublease.
- 12.2 Sublessor, upon prior written notice to Sublessee, may assign this Sublease and all or any of the rights, benefits and advantages hereunder (including, but not limited to, title to any Locomotive) to any of Sublessor's direct or indirect subsidiaries or affiliates as Sublessor may select in its sole discretion.
- 12.3 Notwithstanding any other provision of this agreement, any transfer, assignment or sublease of this Sublease shall not relieve Sublessee of its obligation under this Sublease (including any obligation to give notice to Sublessor of any such transfer, assignment or sublease), shall be made subject to the consent of the Trustee and shall require any transferee, assignee or sublessee to assume all the obligations of this Sublease and require such sublessee to take no action in connection with the obligations of any outstanding primary financing agreements to which such equipment is subject, and no action in connection with such sublease or activities arising thereunder, that would permit any encumbrances or liens to arise on such equipment contrary to Sublessor's General and Adjustment Mortgages of 1895 and any primary financing agreements to which such Locomotive is subject. Sublessee shall deliver to Sublessor for forwarding to Trustee a copy of any such sublease by Sublessee promptly after its execution with confidential financial terms redacted.

13. Representations and Warranties.

13.1 Sublessor represents and warrants that it has the right to enter into this Sublease subject to the approval of the Trustee.

13.2 Sublessee represents and warrants that:

13.2.1 The Sublessee is a duly organized and validly existing corporation in good standing under the laws of the State of Illinois; is duly qualified to do business in such jurisdictions as are necessary to carry out the transactions contemplated by this Sublease; and has power and authority to own its properties and carry on its business as now conducted.

13.2.2 The execution and delivery of this Sublease is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of law or of its charter or by-laws nor contravene or constitute a default under the provisions of any agreement or other instrument binding upon it, and the Sublease is a valid and binding obligation of the Sublessee enforceable, subject to applicable insolvency, bankruptcy or moratorium laws, against the Sublessee in accordance with its terms.

13.2.3 The rights of Sublessor as herein set forth and the title of Sublessor to the Locomotives are senior to the lien of any mortgage, security agreement or other instrument binding upon Sublessee.

13.2.4 No governmental authorizations, approvals or exemptions are required for the execution and delivery of this Sublease or for the validity and enforceability thereof or the leasing of the Locomotives hereunder for the rentals and on the other terms and conditions provided for herein; or, if any such authorizations are required, they have been obtained, and if any such shall hereafter be required, they will promptly be obtained.

13.2.5 No litigation or administrative proceedings are pending or to the knowledge of the Sublessee, threatened against the Sublessee, the adverse determination of which would affect the ability of Sublessee to perform its obligations under this Sublease, the validity of this Sublease or the rights of the Sublessor hereunder.

13.3 Purchaser represents and warrants that:

- 13.3.1** The Purchaser is a duly organized and validly existing corporation in good standing under the laws of the State of Illinois; is duly qualified to do business in such jurisdictions as are necessary to carry out the transactions contemplated by this Sublease; and has power and authority to own its properties and carry on its business as now conducted.
- 13.3.2** The execution and delivery of this Sublease is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of law or of its charter or by-laws nor contravene or constitute a default under the provisions of any agreement or other instrument binding upon it, and the Sublease is a valid and binding obligation of the Purchaser enforceable, subject to applicable insolvency, bankruptcy or moratorium laws, against the Purchaser in accordance with its terms.
- 13.3.3** The rights of Sublessor as herein set forth and the title of Sublessor to the Locomotives are senior to the lien of any mortgage, security agreement or other instrument binding upon Purchaser.
- 13.3.4** No governmental authorizations, approvals or exemptions are required for the execution and delivery of this Sublease or for the validity and enforceability thereof or the leasing of the Locomotives hereunder for the rentals and on the other terms and conditions provided for herein; or, if any such authorizations are required, they have been obtained, and if any such shall hereafter be required, they will promptly be obtained.
- 13.3.5** No litigation or administrative proceedings are pending or to the knowledge of the Purchaser, threatened against the Purchaser, the adverse determination of which would affect the ability of Purchaser to perform its obligations under this Sublease, the validity of this Sublease or the rights of the Sublessor hereunder.

14. Default.

- 14.1** If either Sublessee or Purchaser breaches or is in default of any material provision of this Sublease and such breach or default is not cured with fourteen (14) calendar days after receipt of written notice specifying such breach or default has been given pursuant to the provisions of this Sublease, then Sublessor, at its option, may, without prejudice to any other rights or remedies it may have under this Sublease, at law or in equity, do any one or more of the following, provided,

however, that if the default is of such nature as to require more than fourteen (14) days to cure, and such party commences such cure within such fourteen (14) day period and proceeds with due diligence and dispatch to effect such cure, such party will have an additional thirty (30) day period to cure such default before Sublessor exercises the rights below:

- 14.1.1 Proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Sublessee or the Purchaser, as the case may be, of the applicable covenants of this Sublease or to recover damages for the breach thereof.
- 14.1.2 Terminate **this** Sublease immediately, whereupon Sublessee shall return the Locomotives to Sublessor; but the Sublessor shall, nevertheless, have the right to recover from the Sublessee or the Purchaser, as the case may be, any and all amounts which under the terms of this Sublease may then be due and owing or which may become due and unpaid for the use of the Locomotives (including, but not limited to, rentals accruing on the Locomotives after the date of termination).
- 14.2 The remedies and powers in this Sublease provided in favor of Sublessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies and powers in its favor existing at law or in equity and each and every remedy and power may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Sublessor. Sublessee and Purchaser hereby waive any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. No delay or omission of Sublessor in the exercise of any remedy or power, no granting of an extension of time for the making of any payment due hereunder or other indulgence and no exercise of any remedy or power shall impair any such remedy or power or the rights under this Sublease or shall constitute a waiver of any breach or default or an acquiescence therein. In the event that Sublessor shall bring suit and be entitled to judgment hereunder, then Sublessor shall be entitled to recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.
- 14.3 As used in this Section 14, a breach or default of a material provision of this Sublease shall include, but not be limited to, the following:
 - 14.3.1 Failure to pay any amounts hereunder when due.
 - 14.3.2 Sublessee's or Purchaser's making or suffering, voluntarily, by operation of law or otherwise, any unauthorized assignment, encumbrance or transfer of this Sublease or any interest thereon or any right granted thereunder, and shall fail or refuse to cause such

assignment, encumbrance or transfer to be cancelled by agreement of all parties having any interest therein.

14.3.3 Any proceedings shall be commenced by or against Sublessee or by or against Purchaser for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions.

14.3.4 Failure to satisfy the insurance requirements under paragraph 8.5.

14.4 Sublessee shall be entitled to quiet enjoyment of the Locomotives during the term of this Sublease, and in the event such quiet enjoyment is materially disturbed as a result of action by, through, or as a result of actions of Sublessor, such breach shall be considered an event of default by Sublessor, in which case Sublessee shall have the right to terminate this Sublease with respect to any affected Locomotive, and return such Locomotive to Sublessor. Upon such return, Sublessee shall have no further obligation with respect to such Locomotive other than those already arising under the Sublease prior to termination. Such return shall not preclude exercise of any remedy otherwise available to Sublessee for the results of Sublessor's default.

15. Term.

15.1 The Sublease shall commence for each Locomotive on the date such Locomotive is delivered and accepted by Sublessee and shall continue until the earlier of (i) the date such Locomotive is purchased by Purchaser pursuant to the terms of Section 15.3 of this Sublease and (ii) in the case of Locomotive Nos. 5377 and 5379, January 1, 1995, and in the case of all other Locomotives, June 1, 1995. Notwithstanding the foregoing provisions of this Section 15.1, Sublessor shall retain the right, prior to the purchase by Purchaser of the Locomotives pursuant to Section 15.3 hereof, to require Sublessee to return to Sublessor all or any other number of the Locomotives listed in Part A of Appendix 1. Sublessor shall exercise such right by delivering to Sublessee a written notice describing the specific Locomotives to be returned to Sublessor at least sixty (60) days prior to the date for such return. Any Locomotive returned to Sublessor under this Section 15.1 shall be in equal or better condition than the condition of such Locomotive when first delivered to Sublessee, less ordinary wear and tear. Upon the return of any Locomotive to Sublessor, this Sublease shall be terminated with respect to such Locomotive. If any such Locomotive is subsequently redelivered to Sublessee prior to, in the case of Locomotive No. 5379, November 1, 1994 and prior to, in the case of all other Locomotives, April 1, 1995, the terms of the Sublease shall be reinstated with respect to such Locomotive. Any redelivery of any such Locomotive to Sublessee shall be in equal or better condition than the condition of such Locomotive when delivered to Sublessee, less ordinary wear and tear.

- 15.2 It is understood and agreed that any termination will not relieve any of the parties hereto of any obligation arising prior to or upon such termination, including, but not limited to, the obligations of Sublessee under Sections 8, 9 and 11, and any obligation to pay any rent or other sums due and owing to Sublessor at the time of any such termination or as a result of any such termination.

Upon the termination of this Agreement with respect to each Locomotive, and provided that Purchaser has not purchased the Locomotives as required by Section 15.3, such Locomotive shall be returned to Sublessor within thirty (30) days unless otherwise agreed, during which time the rentals and all other obligations under this Agreement shall remain in effect until acceptance of such Locomotive by Sublessor at Corwith, Illinois. Each Locomotive returned to Sublessor hereunder shall be in good repair and operating condition, ordinary wear and tear excepted, shall be painted in Sublessor's colors with Sublessor's markings or, if such Locomotive is returned without such color scheme and markings, Sublessee shall reimburse Sublessor for its cost to repaint and remark such Locomotive, and shall contain full complement of consumables including but not limited to fuel, sand, lube oil, borate water and air compressor oil.

15.3 Purchase of Locomotives.

Provided that this Sublease has not been earlier terminated and the Sublessor is not in default hereunder, Purchaser shall purchase the Locomotives under the following terms and conditions:

- A. With respect to the Locomotives listed in Part A of Appendix 1 hereto, other than Locomotive No. 5379, on and after April 1, 1995, but not later than June 1, 1995, Purchaser shall purchase all, but not less than all, of the Locomotives at the purchase price of One Hundred Thousand Dollars (\$100,000) per Locomotive. Any rent payments made by Sublessee for use of any of these Locomotives after April 1, 1995 and prior to the date on which Sublessor notifies Purchaser that Sublessor can deliver the Locomotives with clear and unencumbered title shall be credited toward the One Hundred Thousand Dollars (\$100,000) purchase price of each such Locomotive. The purchase price shall be payable by Purchaser in immediately available funds on the date that the title to such Locomotives is transferred to Purchaser.
- B. With respect to Locomotive No. 5379 listed in Part A of Appendix 1 hereto, on and after November 1, 1994, but no later than January 1, 1995, Purchaser shall purchase such Locomotive at the purchase price of One Hundred Thousand Dollars (\$100,000). Any rent payments made by Sublessee for use of this Locomotive after November 1, 1994 and prior to the date on which Sublessor notifies Purchaser that Sublessor can deliver the Locomotives with clear and unencumbered title shall be

credited toward the One Hundred Thousand Dollars (\$100,000) purchase price of such Locomotive. The purchase price shall be payable by Purchaser in immediately available funds on the date that the title to such Locomotive is transferred to Purchaser.

- C. With respect to the Locomotives described in Part B of Appendix 1 hereto other than Locomotive No. 5377, on and after April 1, 1995, but no later than June 1, 1995, Purchaser shall purchase all, but not less than all, of the Locomotives at the purchase price of Fifty-Five Thousand Dollars (\$55,000) per Locomotive. Any rent payments made by Sublessee for use of any of these Locomotives after April 1, 1995, and prior to the date on which Sublessor notifies Purchaser that Sublessor can deliver the Locomotives with clear and unencumbered title shall be credited toward the Fifty-Five Thousand Dollars (\$55,000.00) purchase price of such Locomotive. The purchase price shall be payable by Purchaser in immediately available funds on the date that the title to such Locomotives is transferred to Purchaser.
- D. With respect to Locomotive No. 5377 listed in Part B of Appendix 1 hereto, on and after November 1, 1994, but no later than January 1, 1995, Purchaser shall purchase such Locomotive at the purchase price of Fifty-Five Thousand Dollars (\$55,000). Any rent payments made by Sublessee for use of this Locomotive after November 1, 1994 and prior to the date on which Sublessor notifies Purchaser that Sublessor can deliver the Locomotive with clear and unencumbered title shall be credited toward the Fifty-Five Thousand Dollars (\$55,000) purchase price of such Locomotive. The purchase price shall be payable by Purchaser in immediately available funds on the date that the title to such Locomotive is transferred to Purchaser.
- E. Sublessor and Purchaser shall enter into a purchase agreement prior to November 1, 1994 substantially in the form of the purchase agreement attached hereto as Appendix 3.
- F. Sublessor shall furnish to Purchaser clear and unencumbered title to any of the Locomotives transferred pursuant to this Section 15.3.
- G. Notwithstanding anything to the contrary in this Sublease, the parties hereto acknowledge that the right of the Purchaser to purchase any of the Locomotives pursuant to this Section 15.3 is subject to the rights of the Trustee in and to such Locomotives, including the rights of the Trustee upon the happening of an Event of Default under the terms of the Equipment Trust Agreements listed in Parts A and B of Appendix 1 hereto.

H. In the event Sublessor does not fulfill its obligation to sell the Locomotives to Purchaser, Sublessor is obligated to reimburse Sublessee for all improvements made by Sublessee to the Locomotives listed in Part B of Appendix 1 hereto and shall remit to Sublessee fifty percent (50%) of the rental payments paid by Sublessee to Sublessor for the Locomotives listed in Part B of Appendix 1 hereto.

15.4 Lease of Purchased Locomotives.

In the event that ownership of the Locomotives described in Part A of Appendix 1 is transferred to Purchaser pursuant to the terms of Section 15.3, Purchaser agrees to lease such Locomotives to Sublessor upon thirty (30) days prior written notice in accordance with the following schedule:

<u>Period</u>	<u>No. of Locomotives</u>
08/15/95 - 11/15/95	up to 20 Locomotives
02/15/96 - 05/15/96	up to 15 Locomotives
08/15/96 - 11/15/96	up to 10 Locomotives
02/15/97 - 05/15/97	up to 5 Locomotives

Sublessor shall pay to Purchaser as rent for the use of such Locomotives an amount equal to Three Hundred Dollars (\$300.00) per day per Locomotive. All other relevant lease terms, excluding such provisions as the purchase provision in Section 15.3 hereof, set forth herein shall be applicable with those terms currently applicable to the Sublessee being applicable to the Sublessor and those applicable to the Sublessor being applicable to the Purchaser for the lease of the purchased Locomotives.

16. General

16.1 Subject Headings.

The subject headings on this Sublease have been placed thereon for the mere convenience of the parties and shall not be considered in any question of interpretation or construction of this Sublease.

16.2 Waiver.

The failure of either party to enforce at any time or for any period of time any provision of this Sublease shall not be construed as a waiver of such provision or of the rights of such party thereafter to enforce such provision.

16.3 Notice.

All notices required or permitted hereunder shall be in writing and shall be deemed duly given when personally delivered or transmitted by first class mail letter, telex or telephone transmitted facsimile, directed by one party to the other party at its respective address as follows:

To Sublessee: Wisconsin Central Ltd.
One O'Hare Centre
Suite 9000
6250 North River Road
Rosemont, Illinois 60018
*Attn: Thomas F. Power Jr.
Executive Vice President
Chief Financial Officer*

To Purchaser: WCL Railcars, Inc.
One O'Hare Centre
Suite 9000
6250 North River Road
Rosemont, Illinois 60018
*Attn: Thomas F. Power Jr.
Executive Vice President
Chief Financial Officer*

To Sublessor: The Atchison, Topeka and Santa Fe
Railway Company
1700 East Golf Road
Schaumburg, Illinois 60173-5860
Attn: Vice President-Finance

or to such other address as either party may hereafter designate in writing by like notice.

16.4 Execution in Counterparts.

This Sublease may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute ~~but~~ one and the same instrument.

16.5 Applicable Law.

Except insofar as Federal law may be applicable, the terms and conditions of this instrument and all rights and obligations hereunder shall be governed by the laws of the State of Illinois, but Sublessor and any assignee thereof shall be entitled to such additional rights arising out of the filing or recording hereof, or of any

assignment hereof, as shall be conferred by the laws of any jurisdiction in which the Sublease or any assignment shall be filed or recorded.

16.6 Entire Agreement.

Except as otherwise specified herein, this Sublease contains the entire and only agreement between the parties concerning the subject matter hereof, and there are merged herein all prior and collateral representations, promises or conditions in connection with the subject matter hereof, and any representation, promise or condition not incorporated herein and made a part hereof shall not be binding upon either party. No modification, renewal, extension, termination or waiver of this Sublease or any of the provisions herein contained shall be binding upon either party unless made in writing by a duly authorized representative of each party.

WHEREFORE, the parties hereto, intending to be legally bound hereby, have executed this Sublease as of the date first written above.

WISCONSIN CENTRAL LTD
By: J.P. Power Jr.
Its: EVP-CFO
Date: 8/26/94

ATTEST:
By: Walter C. Kelly
Its: VP-Finance

WCL RAILCARS, INC.
By: J.P. Power Jr.
Its: EVP-CFO
Date: 8/26/94

ATTEST:
By: Walter C. Kelly
Its: VP-Finance

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

By: *D. M. Sizemore*
Vice President &

Its: Chief Mechanical Officer

Date: 8/26/94

ATTEST:

By: *[Signature]*

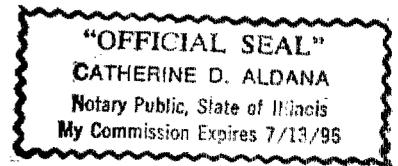
Its: Out to VP & CMO

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

On this 26th day of August, 1994, before me personally appeared T. F. Power, Jr. and Walter C. Kelly, to me personally known, who being by me duly sworn, says that they are the EVP-CFO and VP-Finance respectively of Wisconsin Central Ltd., that the foregoing instrument was signed on behalf of said company by authority of its Board of Directors and they acknowledged that the execution of the foregoing instrument was the free act and deed of said company.

Catherine D. Aldana

Notary Public

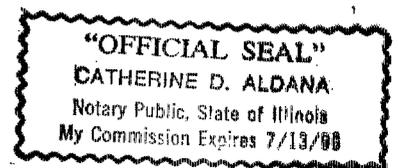


STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

On this 26th day of August, 1994, before me personally appeared T. F. Power, Jr. and Walter C. Kelly, to me personally known, who being by me duly sworn, says that they are the EVP-CFO and VP-Finance respectively of WCL Railcars, Inc., that the foregoing instrument was signed on behalf of said company by authority of its Board of Directors and they acknowledged that the execution of the foregoing instrument was the free act and deed of said company.

Catherine D. Aldana

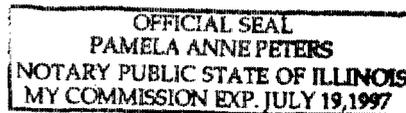
Notary Public



STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

On this 26th day of August, 1994, before me personally appeared D. M. Sizemore, to me personally known, who being by me duly sworn, says that he/she is the V.P. and CMO of The Atchison, Topeka and Santa Fe Railway Company, that the foregoing instrument was signed on behalf of said company by authority of its Board of Directors and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said company.

Pamela Anne Peters
Notary Public



APPENDIX 1

Part A

The following are 3600 horsepower diesel electric Locomotives, original General Motors Corporation (Electro-Motive Division) model SD-45; ATSF remanufacturer:

<u>Road No.</u>	<u>Equipment Trust Agreement</u>
5328	Series 5, Maturing April 1, 1995
5329	Series 5, Maturing April 1, 1995
5334	Series 5, Maturing April 1, 1995
5336	Series 5, Maturing April 1, 1995
5337	Series 5, Maturing April 1, 1995
5341	Series 5, Maturing April 1, 1995
5342	Series 5, Maturing April 1, 1995
5344	Series 5, Maturing April 1, 1995
5345	Series 5, Maturing April 1, 1995
5346	Series 5, Maturing April 1, 1995
5379	Series 4, Maturing November 1, 1994
5382	Series 5, Maturing April 1, 1995
5388	Series 5, Maturing April 1, 1995
5391	Series 5, Maturing April 1, 1995
5392	Series 5, Maturing April 1, 1995
5395	Series 5, Maturing April 1, 1995
5396	Series 5, Maturing April 1, 1995
5397	Series 5, Maturing April 1, 1995
5399	Series 5, Maturing April 1, 1995
5402	Series 5, Maturing April 1, 1995

APPENDIX 1

Part B

The following are 3600 horsepower diesel electric Locomotives original General Motors Corporation (Electro-Motive Division) model SD-45; ATSF remanufacturer:

<u>Road No.</u>	<u>Equipment Trust Agreement</u>
5327	Series 5, Maturing April 1, 1995
5331	Series 5, Maturing April 1, 1995
5332	Series 5, Maturing April 1, 1995
5339	Series 5, Maturing April 1, 1995
5377	Series 4, Maturing November 1, 1994
5383	Series 5, Maturing April 1, 1995
5384	Series 5, Maturing April 1, 1995
5390	Series 5, Maturing April 1, 1995
5393	Series 5, Maturing April 1, 1995
5394	Series 5, Maturing April 1, 1995
5400	Series 5, Maturing April 1, 1995

The following are 3600 horsepower diesel electric Locomotives SDF-45, original General Motors Corporation (Electro-Motive Division) model SD-45; ATSF remanufacturer:

<u>Road No.</u>	<u>Equipment Trust Agreement</u>
5959	Series 5, Maturing April 1, 1995
5972	Series 5, Maturing April 1, 1995

APPENDIX 2

CERTIFICATE OF ACCEPTANCE

I, the duly authorized representative for the Wisconsin Central Ltd (the "Sublessee") under the Locomotive Sublease and Purchase Agreement dated as August __, 1994 (the "Sublease"), do hereby certify that I inspected and accepted delivery thereunder of the following locomotives:

NUMBER OF LOCOMOTIVES:

ROAD NUMBER(S):

PLACE ACCEPTED:

DATE ACCEPTED:

I do further certify that the foregoing Locomotives conform to the specifications, requirements and standards applicable therefore as provided in the Sublease.

Authorized Representative of Sublessee

2. Purchaser shall, within 48 hours of delivery of each locomotive, execute and deliver a certificate of acceptance in substantially the form set forth as in attached Exhibit A (Certificate of Acceptance).
3. All risk of loss of the property passes to Purchaser immediately upon receipt of Bill of Sale.

SPECIAL NOTE

Seller hereby assigns its rights to sell this property to its Qualified Intermediary, APEX Property & Track Exchange, Inc. All obligations remain with The Atchison, Topeka & Santa Fe Railway Company.

Checks must be made payable to:

Federated Services Company, Escrow Holder for APEX Property & Track Exchange, Inc.

Checks must be mailed to:

AT&SF Railway Company
Attention: Asset Disposition
P. O. Box 1674
Topeka, Kansas 66601-1674

Purchaser shall assume all liability hereinafter stated.

Purchaser agrees to release Santa Fe from any claims arising from this purchase which Purchaser, Purchaser's company or employees, subcontractors, agents, or invitees could otherwise assert against Santa Fe, regardless of Santa Fe's negligence, except to the extent that such claims are proximately caused by the intentional misconduct or gross negligence of Santa Fe.

Purchaser further agrees to indemnify and save harmless Santa Fe for all judgements, awards, claims, demands, and expenses (including attorneys' fees), including injury or death to all persons including both Purchaser's and Santa Fe's officers and employees, and for loss or damage to Property belonging to any person, arising from Purchaser's acts or omissions or failure to perform any obligation hereunder, except to the extent that such judgements, awards, claims, demands, or expenses are proximately caused by the intentional misconduct or gross negligence of Santa Fe.

Purchaser further agrees to comply with all applicable federal or state statutes or ordinances, orders or regulations of any governmental body with respect to the use and condition of the Property sold to Purchaser hereunder, including disposition of the Property while located on Santa Fe premises. Purchaser shall indemnify, save harmless, and assume the cost of defense of Santa Fe from and against all claims, actions, or legal proceedings arising from the violation or alleged violation of any laws, ordinances, orders, or regulations by Purchaser.

This document and any documents attached and incorporated by reference constitute the entire Agreement of the parties. Any modifications to this Agreement must be in writing and signed by both parties.

To the maximum extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Agreement.

Notwithstanding the terms, conditions or provisions of any Proposal, Rental Agreement Form, Custody Receipt or other written document which may be executed by SANTA FE personnel pursuant to this Agreement, the terms and conditions in this Agreement shall control over any term, condition or provision in any Proposal, Rental Agreement Form, Custody Receipt or other written document. Notwithstanding the foregoing, the provisions of Sections 15.3 and 15.4 of the Locomotive Sublease and Purchase Agreement dated as of August __, 1994, among Santa Fe, WCL Railcars, Inc., and Wisconsin Central Ltd. shall be incorporated herein and made a part of this Agreement.

Santa Fe will convey to Purchaser good and marketable title in and to each of the locomotives, free and clear of any security interest, lien, encumbrance or charge of any kind (including without limitation, any security interest filed with the Interstate Commerce Commission) created or incurred by Santa Fe. Santa Fe has taken all steps necessary to perfect and protect its rights in and to the locomotives and has full right and power to sell, transfer and assign the locomotives without restriction.

This Agreement will be governed by the laws of the State of Kansas.

Please indicate your acceptance in the place provided on each of the two (2) letters returning each to the undersigned within five (5) days to the AT&SF Railway Company, P.O. Box 1674, Topeka, Kansas 66601, Attention: Manager Asset Disposition.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

By: _____

Title: _____

WCL RAILCARS, INC.

Accepted by: _____

Its: _____

Date: _____

